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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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081 926,788 09/10/97 LEWIS

EXAMINER  
R 1339.08.A

QM41/0729

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ART UNIT PAPER NUMBER  
*SST/ASTAVA, V* 2

DATE MAILED:  
3735

07/29/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

- Responsive to communication(s) filed on \_\_\_\_\_
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- Claim(s) 1 - 7 are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 1 - 7 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers:

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- Notice of Reference Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 - 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartos in view of Berndt.

Bartos teaches a frame (38) for self contained breathing apparatus (10) which is illustrated in Figs. 1 - 3 including an air tank (12), and a control system (14) for controlling the flow of air.

✓ However, Bartos does not refere the frame as a back frame, but broadly teaches in Col. 4, lines (50 - 53) the use of straps (42) for holding the frame in any position. Supporting the frame on the back of a person would have been ordinarily obvious to one having an ordinary skill in the art related to underwater equipment for diving and swimming and as such tere is no inherent unobviousness. Regarding the shell of the frame and positioning of the air tank, note Berndt teaches a shell (10) which is illustrated in Figs. 1 - 3 having a rear wall, a closure plate (11 and 12) received by the side walls. It would have been obvious to one of ordinary skill in the art in view of Berndt to have provided a back frame structure in the apparatus of Bartos for holding the air tank close to the back wall for stability and distribution of the weight.

With respect to claim 2, note the hose (26) as taught by Bartos.

With respect to claim 3, note Fig. 1 of Bartos illustrating the hose connection.

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Claims 4 - 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartos in view of Berndt as applied to claim 1 above, and further in view of Lundberg.

With respect to claim 4, regarding the use of alarm, note the teaching of Lundberg in Col. 1, lines (6 - 15) and Col. ½, lines (59 - 6). It would have been obvious to one of ordinary skill in the art in view of Lundberg to have provided an alarm system in the apparatus of Bartos modified by Berndt for providing a low air pressure warning.

With respect to claim 5, note the battery (3) as taught by Lundberg in Col. 2, lines (59 - 60).

With respect to claim 6, note the cover (12) which is illustrated in Fig. 1 as taught by Berndt in Col. 2, lines (4 - 6).

With respect to claim 7, note the combined teaching of Bartos in view of Berndt and Lundberg. Regarding the buddy breathing hose, note the hose (26) as taught by Bartos. Regarding the use of a low air pressure alarm, and a battery, note the teaching of Lundberg as above. Regarding the shell of the apparatus, note the structure (10) as taught by Berndt.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Neill, Eppolito, Orr, Debe et al, and Cochran et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Srivastava whose telephone number is (703) 308-0959.

vs S

V. Srivastava

July 20, 1998